

09.03.2022
Ct. 21
D/L 06

C.O. 29 of 2022
(Via Video Conference)

Tasmith Jewellers
-Vs-
Voylla Fashions Pvt. Ltd.

Mr. Kushal Chatterjee,
Mr. Subhasish Mitra,
Mr. Debrup Chowdhury,

... for the petitioner

Mr. Arindam Guha,
Mr. Shuvasish Sengupta,

...for the opposite party

The present application under Article 227 of the Constitution of India is at the instance of that Tasmith Jewellers, the supplier being aggrieved by inaction on the part of Facilitation Council in respect of its reference application under Section 18 of the Micro, Small and Medium Enterprise Development Act, 2006 dated 22.11.2021.

The facts necessary for determination of the present revisional application in gist is that the petitioner is a registered Micro and Small Enterprise and engaged in manufacturing fashion jewelries. That opposite party was/is one of its buyers. In the course of their business relationship the petitioner appears to have supplied goods worth more than 4 crore in the financial year from 2017-18 to 2021-22. That during

those financial years the opposite part had made payment of Rs.3,51,27,265/-. It is the case of the petitioner that opposite party still owe Rs. 98,10,572/- towards the value of products sold. That a settlement was arrived between the parties and it was agreed that buyer unit would clear the outstanding dues in nine installments from July, 2021 to March, 2022, but after making payment for the month of July 2021 and August 2021 and failed to make payment. On enquiry it was found that buyer unit is planning to sell off its business. Finding no other alternative the petitioner has filed reference petition before the Micro and Small Enterprises Facilitation Council West Bengal on 22.11.2021. The council has failed to resolve the issue and failed to secure the outstanding due by way of bank guarantee from the opposite party and for which the petitioner has been suffering financially.

On the other hand learned Advocate of the opposite party has contended that the matter is still pending for settlement before the Facilitation Council and without exhaustion of the proceeding laid down in section 18 of the Act of 2006 the petitioner has approached this Court. The present application is premature and not maintainable. Therefore, he prays for dismissal of the present revisional application.

Perused the record from where it is seen the petitioner's reference application is still pending before

the Faciliation Council, West Bengal and who has already initiated conciliation proceedings between the parties and it is yet to come to the final conciliation between the parties.

However, the petitioner has prayed for early disposal of its reference application by Faciliation Council. Therefore, this Court does not find any impediment in granting the prayer made by the petitioner. More so, it is not going to prejudice the interest of the opposite party if the matter is heard expeditiously by Faciliation Council.

Micro and Small Enterprises Faciliation Council, West Bengal is hereby requested to dispose of the reference application under section 18 of the Act of 2006 within three months from the date of communication of this order without granting any kind of adjournment on the prayer of either of the parties. In case no settlement arrives or conciliation terminates then he should proceed as per law provided in the Act of 2006.

Accordingly, C.O No. 29 of 2022 is disposed of.

Interim order, if any, stands discharged.

In view of the order made above Affidavits are not invited. Allegations made shall be deemed to be denied. There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(**Kesang Doma Bhutia, J.**)